WP(C) 6188/2001

BEFORE

HON'BLE MR. JUSTICE HRISHIKESH ROY

Heard Mr. N. Dhar, learned counsel for the petitioners. None appears for the respondents.

2. This case pertains to the efforts at revival of the Swahid Kushal Konwar Samabay Sutakol Ltd. (in short the Mill), which becomes non-functional for various reasons. The petitioner made a proposal on 26.6.2000 to revive the Mill by investing necessary funds and expertise. The offer of the petitioner was considered and a provisional memorandum of understanding (MOU) dated 8.12.2000 for leasing out the Mill was executed between the petitioner as the first party and the Chairman and Managing Director of the Mill as the second party (Annexure-P/7). Various clauses were incorporated in the MOU containing the terms under which the revival attempt was to be made. Clause-31 provided that the provisional MOU is to remain operational for one year or till the date of signing the lease. Perhaps because the parties were unable to keep their commitment, the impugned order was passed on 22.8.01 by the Deputy Commissioner, Golaghat on the basis of the Govt. message dated 17.8.01, restricting the activities of the petitioners in the Mill and the Mill was ordered to be sealed.

3. Mr. Dhar, learned counsel appearing for the petitioner contends that one of the primary reason for the petitioner's inability to revive the Mill was non-resumption of the power supply by the ASEB and since power was disconnected for non-payment of power dues by the Management, before the petitioner was inducted in the picture, it was the responsibility of the second party of the MOU i.e. the Mill Authorities to ensure restoration of power supply.

4. This Court passed an interim order on 6.9.01 staying the operation of the impugned order dated 22.8.01 (Annexure-P/19) but notwithstanding such interim order, no further development at the attempt at revival of the Mill has so far taken place.

5. The second petition i.e. W.P. (C) 7183/02 has been filed by the petitioner seeking a direction from the Govt. and the Mill Authority to pay the arrear electricity bills of the ASEB, so that power supply is restored M by the ASEB Authorities.

6. Respondents 1 and 2 have filed counter affidavit in W.P.(C) No. 6188/01 wherein it is contended that the provisional MOU dated 8.12.2000 was not authorized by the Govt. and no approval to any of the terms in the said MOU has been granted by the Govt. It is averred that the Govt. of Assam holds over 80% of the total shares in I and without Govt. authorization, neither a provisional MOU nor a final MOU can be signed by the Chairman and the Managing Director of the Mill with the writ petitioner.

7. Another counter affidavit has been filed by the employees of the Mill who got themselves impleaded as respondents 4 to 25, wherein it is stated that although under the MOU the petitioner was required to absorb the Mill employees and pay their wages, the petitioner has not kept its commitment and have failed to discharge its obligation under the MOU.

8. It is the admitted position that the Mill could not be revived in pursuant to the provisional MOU dated 8.12.2000. Nothing positive has happened even after the interim order passed by this Court on 6.9.01 staying the impugned order dated 22.8.01 of the Deputy Commissioner, Golaghat.

9. From the counter affidavit filed by the State and also by the impleaded employees, it is seen that the Govt. had not authorized execution of the provisional MOU. The MOU itself was to remain valid only for a period of one year or ti

ll formal lease agreement is executed and it is nobody’s case that any such leas e agreement has been recorded amongst the parties.

10. When majority of the shares in the Mill are held by the Govt. a decision for revival of the Mill without approval or sanction of the majority stakeholde r can hardly be conceived. However, it is for the Govt. to take an appropriate d ecision for revival of the Mill as its continued closure is certainly detrimenta l to the welfare of the employees of the Mill.

11. Considering the fact that the petitioner has invoked various conditions of the provisional MOU, to make their arguments, it may not be convenient for a Writ Court to appreciate such arguments. Considering the grievances and the clai m, I am of the opinion that the petitioners should be relegated to remedy in Civ il Law for redressal of their grievances. This Court, however, is not voicing a ny opinion on the merit or the legality of the provisional MOU, which was operat ional only for a period of one year. Accordingly I find no justification to ente rtain the writ petitions and the same are accordingly dismissed. However, the pe titioner may explore alternate remedies, as may be available in law, to seek re dressal of the grievances raised in the present petition.

12. The cases are disposed of accordingly.